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## Attorneys for Dive Army

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**DIVE ARMY, a California General  
Partnership,**

**Plaintiff,**

V.

KENNETH P. YAN, an individual; PHILIP E. GUERRERO, an individual; and DOES 1 through 10, inclusive.

#### Defendants.

Case No. 3:13-cv-04873-JSC

**STIPULATED PERMANENT INJUNCTION;  
[PROPOSED] ORDER**

IT IS HEREBY STIPULATED by and between Plaintiff DIVE ARMY ("Plaintiff") and Defendants KENNETH P. YAN and PHILIP E. GUERRERO (collectively "Defendants"):

1. That Defendants, their agents, servants, employees, and all persons acting in concert or participation with them, be enjoined from:

a. Using any combination, reproduction, counterfeit, copy or colorable imitation of Plaintiff's DIVE ARMY trademarks, which are the subject of United States Trademark Serial Nos. United States Patent and Trademark Office Serial Numbers 85829025.

1       85829185, and 86092297, in connection with the advertising, distribution, offering for  
2       sale, or sale of any goods or services throughout the world;

3       b.      Using any combination, reproduction, counterfeit, copy or colorable imitation of  
4       the DIVE ARMY trademarks in any manner likely to cause confusion, to cause mistake  
5       or to deceive the public or likely to injure Plaintiff's business, reputation, or the  
6       reputation and goodwill of the DIVE ARMY trademarks throughout the world;

7       c.      Selling, offering to sell, advertising, promoting, or passing off, inducing or  
8       enabling others to sell, offer to sell, advertise, promote or pass off any goods or services  
9       similar to those provided by Plaintiff under a name or mark the same as or similar to  
10      Plaintiff's DIVE ARMY trademarks or utilizing the words "dive" or "army" in the  
11      promotion of such goods or services except for in a strictly descriptive form and in no  
12      case as a portion or the entirety of any trademark throughout the world;

13      d.      Committing any acts calculated to cause customers or consumers to believe that  
14      Defendants' goods or services are the approved goods or services of Plaintiff and  
15      otherwise competing unfairly with Plaintiff in any manner, including, but not limited to,  
16      using Plaintiff's DIVE ARMY trademarks or any confusingly similar marks throughout  
17      the world;

18      e.      Otherwise competing unfairly with Plaintiff in any manner, including, but not  
19      limited to, infringing usage of Plaintiff's DIVE ARMY trademarks or any confusingly  
20      similar marks throughout the world.

21      2.      That Defendants be required to deliver up to Plaintiff for destruction, any and all  
22      materials which bear Plaintiff's DIVE ARMY trademarks or otherwise utilize the mark DIVE ARMY  
23      or the words "dive" or "army" in the promotion of such goods or services except for in a strictly  
24      descriptive form in their possession or under their control;

25      3.      That Defendants be required to deliver up to Plaintiff for destruction, any and all catalogs,  
26      circulars and other printed material in their possession or under their control displaying or exploiting  
27      Plaintiff's DIVE ARMY trademarks or otherwise utilize the mark DIVE ARMY or the words "dive" or  
28      "army" in the promotion of such goods or services except for in a strictly descriptive form;

1 4. That Defendants be required to supply Plaintiff with a complete list of entities or individuals to  
2 whom they have offered for sale products bearing any of the DIVE ARMY trademarks, and be required  
3 to contact such entities, inform them that such items are no longer for sale and may no longer be offered  
4 for sale, and providing them with the means of blacking-out the offerings of said products in their  
5 advertising materials;

6 5. That Defendants shall provide, within thirty (30) days of the entry of the Stipulated  
7 Permanent Injunction, a written statement, under oath or affirmed under penalty of perjury, setting forth  
8 in detail the form and manner in which they have complied with the Stipulated Permanent Injunction.

9  
10 **SO STIPULATED.**

11  
12 Dated: December 6, 2013

MYERS LIN LLP

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14   
15 David A. Bernstein  
16 Attorneys for Plaintiff DIVE ARMY

17 Dated: December \_\_, 2013

18 \_\_\_\_\_  
Kenneth P. Yan, Defendant

19  
20 Dated: December \_\_, 2013

21 \_\_\_\_\_  
Philip E. Guerrero, Defendant

1   4. That Defendants be required to supply Plaintiff with a complete list of entities or individuals to  
2 whom they have offered for sale products bearing any of the DIVE ARMY trademarks, and be required  
3 to contact such entities, inform them that such items are no longer for sale and may no longer be offered  
4 for sale, and providing them with the means of blacking-out the offerings of said products in their  
5 advertising materials;

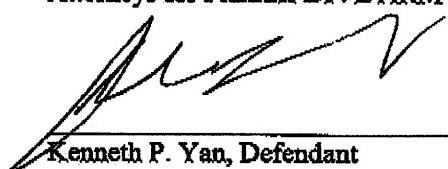
6   5. That Defendants shall provide, within thirty (30) days of the entry of the Stipulated  
7 Permanent Injunction, a written statement, under oath or affirmed under penalty of perjury, setting forth  
8 in detail the form and manner in which they have complied with the Stipulated Permanent Injunction.

9  
10 **SO STIPULATED.**

11  
12 Dated: December       , 2013

MYERS LIN LLP

13  
14  
15 David A. Bernstein  
16 Attorneys for Plaintiff DIVE ARMY



17 Dated: December       , 2013  
18  
19 Kenneth P. Yan, Defendant

20 Dated: December       , 2013

21 Philip E. Guerrero, Defendant

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1       4. That Defendants be required to supply Plaintiff with a complete list of entities or individuals to  
2 whom they have offered for sale products bearing any of the DIVE ARMY trademarks, and be required  
3 to contact such entities, inform them that such items are no longer for sale and may no longer be offered  
4 for sale, and providing them with the means of blacking-out the offerings of said products in their  
5 advertising materials;

6       5. That Defendants shall provide, within thirty (30) days of the entry of the Stipulated  
7 Permanent Injunction, a written statement, under oath or affirmed under penalty of perjury, setting forth  
8 in detail the form and manner in which they have complied with the Stipulated Permanent Injunction.

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10 **SO STIPULATED.**

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12 Dated: December \_\_\_, 2013

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14 MYERS LIN LLP

15 David A. Bernstein  
16 Attorneys for Plaintiff DIVE ARMY

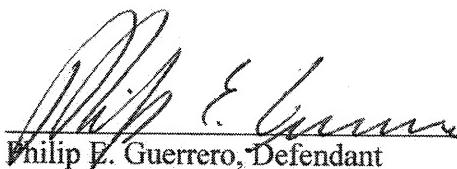
17 Dated: December \_\_\_, 2013

18 Kenneth P. Yan, Defendant

19

20 Dated: December 6, 2013

21 Philip E. Guerrero, Defendant



## ORDER

Dive Army v. Kenneth P. Yan, et al.

Northern District of California Case No. 3:13-cv-04873-JSC

**IT IS HEREBY ORDERED THAT** a Permanent Injunction be entered pursuant to the stipulation, attached hereto, by and between Plaintiff DIVE ARMY, Defendant KENNETH P. YAN, and Defendant PHILIP E. GUERRERO.

IT IS SO ORDERED.

Dated: December 10, 2013

Jacqueline S. Corley  
United States Magistrate Judge

Jacqueline S. Corley

## United States Magistrate Judge

**MYERS LIN LLP**  
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IRVINE, CALIFORNIA 92618